

Senate Study Bill 1047 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

A BILL FOR

1 An Act relating to the Iowa military code and military service
2 by making changes related to the use and support of certain
3 facilities, operations support, employment and rank of
4 active and retired military personnel, the definition of
5 performing military duty, tort claims protections, and an
6 exemption from state income tax for military pensions and
7 including effective date and retroactive applicability
8 provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29A.14, Code 2011, is amended to read as
2 follows:

3 **29A.14 Leasing Support and facilities improvement fund.**

4 1. The adjutant general may operate or lease any of the
5 national guard facilities at Camp Dodge. Any income or revenue
6 derived from the operation or leasing shall be deposited with
7 the treasurer of state and credited to the national guard
8 support and facilities improvement fund. The balance in
9 the national guard support and facilities improvement fund
10 is limited to a maximum of two million dollars. Any amount
11 exceeding the limit shall be credited to the general fund of
12 the state.

13 2. A national guard support and facilities improvement fund
14 is created in the state treasury. The proceeds of the fund are
15 appropriated, and shall be used only to support national guard
16 operations and for the construction, improvement, modification,
17 maintenance or repair of national guard facilities. However,
18 proceeds of the fund shall not be used for the construction of
19 a new facility without the approval of the general assembly.

20 Sec. 2. Section 29A.14A, Code 2011, is amended to read as
21 follows:

22 **29A.14A Use of government facilities.**

23 Notwithstanding any provision of law to the contrary, the
24 state or any political subdivision of the state, shall permit
25 the rental of facilities under its control, for a fee not
26 in excess of any expenses incurred by the state or political
27 subdivision, for designated military events. For purposes
28 of this section, "*designated military event*" means an event,
29 ~~authorized by the adjutant general,~~ for military family
30 readiness groups, departing units, or ~~for~~ returning veterans
31 of the national guard, reserves, or regular components of the
32 armed forces of the United States for a period of up to one year
33 from the date of return from active duty.

34 Sec. 3. Section 29A.19, Code 2011, is amended to read as
35 follows:

1 **29A.19 Quartermaster.**

2 A present or retired ~~commissioned officer~~ member of the
3 national guard who has ten years' service in the Iowa army
4 national guard or the Iowa air national guard ~~and has attained~~
5 ~~the grade of a field officer~~ shall be detailed to be the
6 quartermaster and property officer of the state, who shall have
7 charge of and be accountable for, under the adjutant general,
8 all state military property. The quartermaster shall keep
9 property returns and reports and give bond to the state of Iowa
10 as the governor may direct.

11 Sec. 4. Section 29A.23, Code 2011, is amended to read as
12 follows:

13 **29A.23 Roll of retired officers and enlisted personnel.**

14 An officer or enlisted person who is a member of the Iowa
15 national guard who has completed twenty years of military
16 service under 10 U.S.C. § 1331(d), as evidenced by a letter of
17 notification of retired pay at age sixty, shall upon retirement
18 from the Iowa national guard and written request to the
19 adjutant general be placed by order of the commander in chief
20 on a roll in the office of the adjutant general to be known as
21 the "roll of retired national guard military personnel." A
22 member registered on the roll is entitled to wear the uniform
23 of the rank last held on state or other occasions of ceremony,
24 when the wearing of such uniform is not in conflict with
25 federal law.

26 Sec. 5. Section 29A.57, subsection 2, Code 2011, is amended
27 to read as follows:

28 2. The board may acquire land or real estate by purchase,
29 contract for purchase, gift, or bequest and acquire, own,
30 contract for the construction of, erect, purchase, maintain,
31 alter, operate, and repair installations and facilities of the
32 Iowa army national guard and the Iowa air national guard when
33 funds for the installations and facilities are made available
34 by the federal government, the state of Iowa, municipalities,
35 corporations, or individuals. The title to the property so

1 acquired shall be taken in the name of the state of Iowa and the
2 real estate may be sold or exchanged by the executive council,
3 upon recommendation of the board, when it is no longer needed
4 for the purpose for which it was acquired. Income or revenue
5 derived from the sale of the real estate shall be credited to
6 the national guard support and facilities improvement fund and
7 used for the purposes specified in section 29A.14, subsection
8 2.

9 Sec. 6. Section 29A.78, Code 2011, is amended to read as
10 follows:

11 **29A.78 Brevet rank.**

12 The commander in chief, on the recommendation of the
13 adjutant general, may commission by brevet general and field
14 grade officers ~~of~~ in the national guard whose names appear on
15 the roll of retired military personnel as defined in section
16 29A.23 in the next higher grade than that held at retirement or
17 resignation. Brevet rank is only honorary and does not confer
18 any privilege, precedence or command or pay any emoluments.
19 Brevet officers may wear the uniform of their brevet rank on
20 occasions of ceremonies related to state functions only.

21 Sec. 7. Section 144.13B, Code 2011, is amended to read as
22 follows:

23 **144.13B Waiver of fees — military service.**

24 Notwithstanding any provision of this chapter to the
25 contrary, the certified copy fees for a birth certificate or
26 death certificate of a service member, ~~as defined in section~~
27 ~~29A.90,~~ who died while on active duty performing military duty,
28 as defined in section 29A.1, subsection 3, 11, or 12, shall be
29 waived for a period of one year from the date of death for a
30 family member of the deceased service member.

31 Sec. 8. Section 144C.6, subsection 4, Code 2011, is amended
32 to read as follows:

33 4. A declaration for disposition of remains made by
34 a service member, ~~as defined in section 29A.90,~~ who died
35 while performing military duty as defined in section 29A.1,

1 subsection 3, 11, or 12, on forms provided and authorized by
2 the department of defense for service members for this purpose
3 shall constitute a valid declaration of designee for purposes
4 of this chapter.

5 Sec. 9. Section 422.7, Code 2011, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 41. Subtract, to the extent included,
8 retirement pay received from the federal government for
9 military service performed in the armed forces, armed forces
10 military reserve, or national guard.

11 Sec. 10. Section 476.20, subsection 3, unnumbered paragraph
12 3, Code 2011, is amended to read as follows:

13 The rules established by the board shall provide that
14 a public utility furnishing gas or electricity shall not
15 disconnect service to a residence in which one of the heads of
16 household is a service member deployed for military service, as
17 defined in section ~~29A.90~~ 29A.1, subsection 3, prior to a date
18 ninety days after the end of the service member's deployment,
19 if the public utility is informed of the deployment.

20 Sec. 11. Section 483A.24A, Code 2011, is amended to read as
21 follows:

22 **483A.24A License refunds — military service.**

23 Notwithstanding any provision of this chapter to the
24 contrary, a service member deployed for military service, both
25 as defined in section ~~29A.90~~ 29A.1, subsection 3, shall receive
26 a refund of that portion of any license fee paid by the service
27 member representing the service member's period of military
28 service.

29 Sec. 12. Section 669.2, subsection 4, unnumbered paragraph
30 1, Code 2011, is amended to read as follows:

31 "*Employee of the state*" includes any one or more officers,
32 agents, or employees of the state or any state agency,
33 including members of the general assembly, and persons acting
34 on behalf of the state or any state agency in any official
35 capacity, temporarily or permanently in the service of the

1 state of Iowa, whether with or without compensation, but
2 does not include a contractor doing business with the state.
3 Professional personnel, including physicians, osteopathic
4 physicians and surgeons, osteopathic physicians, optometrists,
5 dentists, nurses, physician assistants, and other medical
6 personnel, who render services to patients or inmates of state
7 institutions under the jurisdiction of the department of human
8 services or the Iowa department of corrections, and employees
9 of the department of veterans affairs, are to be considered
10 employees of the state, whether the personnel are employed on a
11 full-time basis or render services on a part-time basis on a
12 fee schedule or other arrangement. Criminal defendants while
13 performing unpaid community service ordered by the district
14 court, board of parole, or judicial district department of
15 correctional services, or an inmate providing services pursuant
16 to a chapter 28E agreement entered into pursuant to section
17 904.703, and persons supervising those inmates under and
18 according to the terms of the chapter 28E agreement, are to
19 be considered employees of the state. Members of the Iowa
20 national guard performing duties in a requesting state pursuant
21 to section 29C.21 are to be considered employees of the state
22 solely for the purpose of claims arising out of those duties
23 in the event that the requesting state's tort claims coverage
24 does not extend to such members of the Iowa national guard or
25 is less than that provided under Iowa law.

26 Sec. 13. Section 724.7, subsection 2, Code 2011, is amended
27 to read as follows:

28 2. The commissioner of public safety shall develop a process
29 to allow service members deployed for military service to
30 submit a renewal of a nonprofessional permit to carry weapons
31 early and by mail. In addition, a permit issued to a service
32 member who is deployed for military service, as defined in
33 section ~~29A.90~~ 29A.1, subsection 3, 11, or 12, that would
34 otherwise expire during the period of deployment shall remain
35 valid for ninety days after the end of the service member's

1 deployment.

2 Sec. 14. RETROACTIVE APPLICABILITY. The section of
3 this Act enacting new section 422.7, subsection 41, applies
4 retroactively to January 1, 2011, for tax years beginning on
5 or after that date.

6 Sec. 15. EFFECTIVE UPON ENACTMENT. The section of this Act
7 amending section 29A.14, being deemed of immediate importance,
8 takes effect upon enactment.

9

EXPLANATION

10 This bill relates to the Iowa military code and military
11 service.

12 The bill amends Code section 29A.14 to change the name of
13 the national guard facilities improvement fund to the national
14 guard support and facilities improvement fund. The bill allows
15 for these funds to be used for both national guard operations
16 and facilities improvements. This provision of the bill takes
17 effect upon enactment.

18 The bill amends Code section 29A.14A, regarding leasing of
19 governmental facilities for designated military events, to
20 eliminate the requirement that the adjutant general approve
21 the events and to expand the definition of events to include
22 departure-related events.

23 The bill eliminates the requirement that the state
24 quartermaster be a current or former commissioned officer. The
25 change allows current or former noncommissioned officers to
26 serve in the position.

27 The bill amends Code section 29A.23 to specify who may
28 be placed on the role of retired military personnel from the
29 Iowa national guard. Code section 29A.78, relating to brevet
30 commissions, is amended to link the brevet to membership in the
31 Iowa national guard.

32 The bill provides definitions for "performing military duty"
33 as it relates to the waiver of fees for certain birth and death
34 certificates, the designation for the dispositions of remains
35 made on forms provided and authorized by the department of

1 public defense, the disconnection of public utility services,
2 the refund of fishing and hunting license fees, and the renewal
3 of weapon permits.

4 The bill exempts retirement pay received from the federal
5 government for certain military service from state income
6 taxation. This provision of the bill applies retroactively to
7 January 1, 2011, for tax years beginning on or after that date.

8 The bill also amends the Iowa tort claims Act to provide that
9 members of the Iowa national guard performing military duty
10 in a state that has requested assistance from Iowa under the
11 emergency management assistance compact are to be considered
12 employees of the state of Iowa for the purpose of tort claims
13 arising from those duties where the tort claims coverage of the
14 requesting state does not extend to such Iowa national guard
15 members or is less than that of Iowa.